BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	**Simitian, et al.**	**SB 1425**

SUBJECT

California Public Employees' Retirement System - Retirees Who Have Not Reinstated May Not Perform Services For State Until Separated From Service For At Least 180 Days

SUMMARY

This bill would, among other things, prohibit any retired member of the California Public Employees' Retirement System (CALPERS) or the State Teachers' Retirement System (STRS) that has not reinstated to active service after retirement from performing services for any employer whose employees are covered by CALPERS or STRS until separated from service for at least 180 days.

This analysis does not address the above provision as it relates to STRS or the other provisions of the bill relating to the calculation of final compensation for purposes of determining retirement benefits for members of CALPERS or STRS.

PURPOSE OF BILL

According to the author's office, the purpose of this bill is to correct abuses that impose an undue burden on taxpayers and erode public support for reasonable public employee pensions.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2011, and would generally be specifically operative on July 1, 2011, except that the provisions of the bill impacting the department are specifically operative for CALPERS members retiring on or after January 1, 2011. This bill would become operative only if AB 1987 (Ma, et al, 2009/10) is also enacted and takes effect on or before January 1, 2011.

ANALYSIS

STATE LAW

Current state law allows retired CALPERS members, without reinstatement to active service, to work as a retired annuitant for any employer whose employees are covered by CALPERS. Positions in which a retired annuitant may be utilized must be of limited duration and require specialized skills. Retired annuitants may not work more than 960 hours per fiscal year and do not accrue service credit or otherwise acquire any additional retirement benefits from the retiree employment.

Current state law does not specify a number of days that must elapse from separation before a retired member can work as a retired annuitant.

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BACKGROUND

The Franchise Tax Board (FTB) currently employs approximately 50 retired annuitants and all perform short term services in critical need areas where no other viable option exists to immediately fill the position. Because the department utilizes retired annuitants in critical need areas, most retired annuitants employed by the FTB return to work for the department immediately after retirement. Current duties of retired annuitants working for the FTB include the following:

1. Finishing large, complex audits of multistate corporations and banks. In instances where an employee retires before completion of an audit that is extremely complicated, it would cause an unreasonable delay and possibly jeopardize the outcome of the audit to reassign the audit to another employee that is unfamiliar with the particular details of the examination.

2. Performing highly technical information technology duties on projects and FTB legacy systems that, if delayed, could imperil the FTB's ability to timely assess and collect the proper amount of tax revenue. Many of the department's legacy technology systems are built on dated technology platforms no longer readily supported by outside industry, which further reduces the FTB's options for critical information technology support.

3. Training successor staff members on technical matters pertaining to some of the most complex tax laws. Recently the department has been experiencing an increase in sudden retirements of key staff due to compensation issues involving furloughs, proposed pay cuts, and uncertainties pertaining to proposed retirement benefit modifications. Employment of retired annuitants provides a mechanism to transfer key institutional knowledge to successor staff, which absent the sudden retirement, would have otherwise occurred prior to the annuitant's retirement.

<u>THIS BILL</u>

This bill would prohibit any retired member of CALPERS that has not reinstated to active service after retirement from performing services, whether as an employee, through a third party, or as an independent contractor, for any employer whose employees are covered by CALPERS until separated from service for at least 180 days.

The above provision would apply to CALPERS members retiring on or after January 1, 2012. Any retired CALPERS member employed in violation of the above provision would be required to do all of the following:

1. Reimburse CALPERS for any retirement allowance received during the period of employment that is in violation of the law.

2. Pay CALPERS an amount equal to the employee contributions that would have otherwise have been paid during the period of unlawful employment, plus interest.

3. Contribute toward reimbursement of CALPERS' administrative expenses incurred in responding to the unlawful employment, to the extent the member is determined to be at fault.

Any public employer that employs a retired CALPERS member in violation of the above provision would be required to do both of the following:

1. Pay CALPERS an amount equal to employer contributions that otherwise would have been paid for the period that the member was unlawfully employed.

2. Contribute toward reimbursement of CALPERS' administrative expenses incurred in responding to the unlawful employment, to the extent the employer is determined to be at fault.

This bill would become operative only if AB 1987 (Ma, et al, 2009/10) is enacted and takes effect on or before January 1, 2011.

LEGISLATIVE HISTORY

AB 1987 (Ma, et al, 2009/10) would make changes to the calculation of final compensation for purposes of determining retirement benefits for members of county and local retirement systems. This bill would also prohibit any retired state employee that has not reinstated to active service after retirement from performing services for any employer whose employees are covered by the state retirement system from which the employee retired, until that retired state employee has been separated from service for at least 180 days. AB 1987 would only become operative if SB 1425 (Simitian, 2009/10) is enacted and takes effect on or before January 1, 2011.

FISCAL IMPACT

This bill would result in minor salary savings to the extent the department delays employing retired annuitants for 180 days as required.

ECONOMIC IMPACT

<u>Revenue Estimate</u>

If the FTB is required to wait 180 days from the date an employee retires before employing that individual as a retired annuitant, revenue producing activities, technology projects, and maintenance of legacy systems would be adversely impacted. As noted in the "Background" section of this analysis, the FTB only employs retired annuitants in positions that require short term services in critical need areas where no other viable option exists to fill the position immediately. Few, if any, options exist for the FTB to mitigate the adverse impacts of this provision of the bill.

Estimated Revenue Impact of SB 1425 Enactment Assumed September 30, 2010 ($ in Millions)					
Fiscal Year	2010-11	2011-12	2012-13	2013-14	2014-15
Revenue Loss	-$.2	-$.7	-$1.4	-$1.8	-$1.8

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

Appointments

None.

Support/Opposition

Support: California Public Employees' Retirement System
California School Boards Association
Glendale City Employees Association
League of California Cities
Organization of SMUD Employees
San Bernardino Public Employees Association
San Luis Obispo County Employees Association
Santa Rosa City Employees Association
Service Employees International Union, Local 1000

Opposition: California State Association of Counties
Judicial Council of California, Administrative Office of the Courts

VOTES

Senate Floor – Ayes: 35, Noes: 0
Assembly Floor – Ayes: 78, Noes: 0
Concurrence – Ayes: 37, Noes: 0

LEGISLATIVE STAFF CONTACT

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